

The Late Habeas Corpus Proceedings.

There are so many inquiries being made concerning the habeas corpus proceedings by which Jonathan Hoops, jun., a convict in the penitentiary, was released from imprisonment and turned loose upon the community to follow his profession of living without labor, for which he has heretofore, as alleged, had great proclivities, it is deemed proper to publish a statement of the facts, as they occurred, so far as known, for the benefit of those unacquainted with the circumstances, and to show up the illegality of the proceedings, which may possibly be of some service to those officers of the law who may not be fully advised as to what they should or should not do in their official capacity, not having made themselves acquainted with the statutes in such cases made and provided, as thoroughly as they ought.

It is well known, especially in this part of the Territory, that Jonathan Hoops, jun., and one Archibald Williams, were at a regular term of the Probate Court for Utah county, held at Provo City in June last, indicted for horse stealing, and on trial were found guilty, and sentenced each to eighteen months' imprisonment in the penitentiary, and that they escaped from custody the evening after conviction and sentence, through some inattention of the guard in whose custody they were placed, there being no jail in that county in which they could be confined till taken to the Territorial prison. Hoops was subsequently retaken and committed, but Williams, eluding pursuit, left for the west, it is hoped never to return.

Soon after his incarceration, which much displeased some of his associates, efforts were made by the offer of a bribe to one of the prison guards, and also of a large fee to an attorney, to effect his escape or release in some way, neither of which were of any avail, the guard being incorruptible, and the attorney refusing to do anything to thwart the ends of justice for any consideration whatever. On these facts becoming known, it was very generally believed by those acquainted with the circumstances, and who were watching the movements of some of the prisoner's old associates, that some other scheme would be undertaken to accomplish their designs, but what moves would be made, none seemingly could conjecture. The desired end was accomplished, however, sooner than was expected, and in a way wholly unlooked for by the many.

Sometime during the first week in December it was announced that Judge Crosby, who has resided in this city, and not where the law required, since he was assigned to the First Judicial District, had been met on the road leading to Provo, by several persons, under circumstances that attracted attention, as he was on horseback, in the attire of a stock hunter, with lariat and spy-glass, inquiring for some persons alleged to be ahead of him, who had not been met by those of whom the inquiries were made.

The departure of Crosby from the city in that manner, caused many to make inquiry as to what was up, or what had induced him to put off southward in such a plight; but none could tell, though many guessed, not correctly, as the sequel proved. The next news received from the individual who sometimes imagines that he is, or assumes to be the "Supreme Court," was that he had issued a writ of Habeas Corpus and released from imprisonment the notorious Hoops who had not otherwise been successful in his endeavors to elude the operations of the law. This unlooked-for occurrence caused much indignation among the people, and some of the less-wise expressed opinions that the individual who had thus disregarded the laws of the Territory, as they believed, and as subsequently was made to appear, should be dealt with summarily according to the code of Judge Lynch.

The proceedings in the matter were, as reported, as follows:

On arriving at Provo, Crosby, put up at Bullock's Hotel, and forthwith issued a writs such as it was, bearing date December 10th, 1861, directed to the Warden of the Penitentiary, commanding him, the said Warden, to have the body of Jonathan Hoops, jr., by him detained, before him (the said Crosby) at his Chambers, in Provo City, forthwith, to be dealt with according to law, etc. The writ was partly in form and partly not, and although issued by the Judge in Chambers, and not by the First Judicial District court, it had the seal of said court attached, but the

indorsement, according to the express provision of law, of the words "By the Habeas Corpus Act" was not made thereon, consequently it had no validity, and the mandate should not have been obeyed. One Charles Conover was appointed to serve the writ, who performed the service required by leaving the original writ with the defendant without delay, and the Warden at once, on service being thus made, sent the prisoner named therein to Provo, in charge of Mr. Dewey, one of the guards, who took him before the individual who issued it, and thereupon, without investigation or ceremony, and without giving time for a proper return to be made, Crosby discharged the prisoner and turned him loose upon community, or which amounts to the same—took bail for his appearance at a court which, under the circumstances, will, in all probability, never be held for the want of a judge who will do his duty.

The cause assigned for this proceeding was that the court in which the trial and conviction was had was not a legal tribunal—the doctrine advocated by every federal judge hitherto who has come to this Territory to bring evil upon the people, and not to magnify the law by punishing transgressors.

Such in short is the history of what we have no hesitation in saying was an extrajudicial, illegal and diabolical proceeding, and we believe our opinion will be indorsed by every law-abiding man in the Territory. The proceedings were illegal, if for no other reason, because the provisions of the fourth section of the act in relation to writs of Habeas Corpus were not complied with. The applications, if any was made, of which no evidence has been adduced, was not made to the court or judge indicated in the statute, and, if the requirements of the first section were observed, it is not known how nor when the required papers were obtained. Passing over those non-observances of the provisions of the law, the *sine qua non* of "By the Habeas Corpus Act" does not appear on the original writ in our possession, and after the illegal mandate had been obeyed, the course pointed out by the law was not taken, no testimony was heard in relation to the matter, and the fiat of the judge, made instant, terminated the unhallowed and detested proceeding—the last of the kind, it is hoped, that will transpire during the Territorial existence of Utah.

The Habeas Corpus provision is of too sacred a nature to be desecrated by having it used for the toleration and protection of crime, as it has been in this Territory, within the last few years, by some of the Federal judges, who have been a curse to community and a disgrace to the nation and to humanity.

In this connection, we deem it proper to state that every legal process, issued by a lawfully constituted court or judge, should be obeyed; but mandates which bear upon their face the unmistakable evidences of illegality, should not be regarded by those to whom they may be directed, and, in the late Habeas Corpus farce, the Warden of the Penitentiary should have paid no attention whatever to the writ which was served upon him, as it did not possess the requisites of a genuine process.

Heretofore, as has been abundantly proven, the releasing of criminals from imprisonment to which they had been sentenced for high crimes, has, in some instances, been attended with much pecuniary advantage to those who have thus set at naught the laws of the Territory; whether it was or was not, in this instance, deponent saith not.

The Legislative Ball and Union Festival.

Honored with an invitation to the Legislative Ball, held in the Social Hall, on Christmas evening, we had the gratification of meeting there many of our esteemed friends, and mingling with them in the merry dance, and participating together at the festive board.

Besides the members of the Legislative Assembly, there was quite a good representation of Federal officers, and gentlemen connected with the mail and telegraph office, and some of our prominent citizens. The evening was passed very agreeably, and all seemed to enjoy themselves.

On Friday evening, in the same hall, we met again with a other circle of friends at a festive get-together by the City, County and Territorial officers. Presidents Young, Kimball and Wells were present, with portions of their families and were the guests of the evening. We never attended a more agreeable and more social party. There was a freedom of spirit that did the soul good.

News by Western Mail.

The latest dates from the Pacific coast are to the 24th ult.:

There is considerable dissatisfaction expressed in California at the delay of the overland mail. It is alleged that at Carson and beyond the mail bags are matters of secondary consideration, when there is treasure to be taken to San Francisco from the Nevada mines.

The subject of the liability of the Sacramento Valley Railway Company for the damage done to real and personal property in Sacramento was being discussed among those who suffered by the late flood. It is held—as the agents of the company stopped up the natural water course, not only without any legal authority but in the face of the protest of the City Council—that therefore the Company, as a Company, and the agents individually, are responsible for the injury done. It was believed that several hundred suits would shortly be commenced, and that lawyers and courts would be busy with the subject.

Meetings continued to be held in various places not injured by the late flood, for the purpose of extending aid to the citizens of Sacramento and to others who lost their all by the overflowing of the waters of the Sacramento and its tributaries.

The flood was subsiding slowly, and the waters had receded from the plains that were submerged. No correct estimates had been made of the loss of property; but it was believed that in Sacramento City it would amount to one million of dollars. The damages were being repaired rapidly. The loan to the corporation for the construction of a substantial levee around the city was being liberally taken by the property holders, and the work had been commenced.

The small pox was raging at San Louis, Obispo, and there had been forty-eight deaths within a short time.

The lately discovered mines on Tejon road, Southern California, were, according to the *Los Angeles Star*, attracting considerable attention, both from placer and quartz miners, and also from those in quest of silver, copper, &c. Companies of miners were wending their way thither almost daily.

The latest news from Arizona represents things there as not being very flourishing.

It was said there were not a dozen men in Tucson. The country was absolutely deserted.

The *Trinity Journal* of December 14th, has an account of losses by a second flood in Trinity. The damage done to property is said to be immense. It says:

"It becomes our painful duty to chronicle still another flood in Trinity river—the greatest ever known, even by the Indians, for half a century. It is impossible as yet to estimate the damages, or to learn the exact number of lives that have been swept into eternity by the maddened waters. A sickness of heart seizes us as we pen this article. Several of our acquaintances and friends, in their attempts to save property and brave the perils of the flood to deliver news, have perished. The river, in places where it was confined, raised seventy feet above low water mark; in other places where it was wide the banks caved and carried away well cultivated ranches. It became an ocean, spreading from mountain to mountain—sweeping in its furious and resistless current farm houses, miners' cabins, mills, men, women and children; in very truth all that was animate and inanimate. All that the flood of last week spared, this one swept away. Every single mining improvement on the river for one hundred miles has been destroyed, and more than one half the bar and river miners are utterly ruined. Not a single ranch on the river bank has escaped damage, and many have been entirely swept away, or ruined by the deposit of sand and tailings."

It is reported that orders have been received to stop the shipment of powder to California, from the Atlantic States. The *Mirror* says: Should the report prove true, it will be a heavy blow at the mining industry of California. The amount of powder used in that State for mining purposes is immense.

The *Sonora Democrat* says that a chunk of gold and quartz weighing four pounds and containing three pounds of pure gold, was recently taken out of the Smith & Tinder claim, in the upper end of Sonora. Six hundred dollars besides this piece were taken out the same day.

A nugget of gold valued at \$894 was taken from a claim at Mountain Cottage, Butte county, on the 8th of December.

It was understood that all rebels arrested in California will be confined at Fort Yuma,

where Showalter and his gang are now held. The fort will be strongly garrisoned.

OREGON AND WASHINGTON.

The steamer Pacific had arrived at San Francisco from the North, bringing Victoria dates to the 7th, and Portland dates to the 12th of December.

Oregon had been visited by a most disastrous flood, which swept away whole towns and destroyed many human lives. Heavy warm rains melted the snow on the mountains, as in California, and the waters rose to a height before unknown by any of the present inhabitants of the country. According to the accounts published in the California papers, the flood commenced on the 1st of December, and reached its highest point on the 6th. It then gradually subsided until the 10th, when it rose again three feet in a few hours. Two new wharves at Portland were carried away. The lower portion of the town was under water. The saw mills lost 2,000,000 feet of logs. Houses were seen going over the falls in the night, with lights still burning. All the houses at Champog were washed away; some of the inhabitants took refuge in the tops of trees. The great breakwater at Oregon City was destroyed, necessitating a land portage of one mile. The roads in every direction were impassable for vehicles. Every town on the Willamette suffered severely, and the loss of life was great. Many families were rescued from the roofs of houses and barns that had floated off. A small side-wheel steamer, under steam, went over the falls on the 5th. Linn City, Eugene City and Corvallis were reported to have disappeared. The flood was higher than ever known since the settlement of Oregon, though it is said a similar one was once witnessed by Canadian trappers. The rain had been continuous and warm, melting the snow on the cascades. At latest accounts the flood was still up. All the bridges in Yamhill county went off, and many farmers lost all their cattle.

The flood extended to Washington Territory, doing a vast amount of damage there.

SANDWICH ISLANDS.

The whale-ship Harrison had arrived at San Francisco from Honolulu, with dates to November 30th. The American Consul at that port, Alfred Caldwell, had involved himself in a difficulty with the Hawaiian Government, by aiding a whaling captain, charged with crime, to evade the authorities. It was thought the Consul would receive his passports. On the day the Harrison sailed the Hawaiian Minister of Finance called on the King, and requested him to revoke the Consul's ex-equador. Legal proceedings were at once commenced against the Consul to recover the penalty, which is not less than one hundred nor more than one thousand dollars. The Consul would probably have his passport handed him.

Popular Movement.

On Monday next, the sixth inst., at 12 o'clock at noon, there will be a meeting of the citizens of this city, held at the Tabernacle, at which all are requested to attend. The object of the meeting is to appoint delegates to attend a convention to be held in the Court House, in Great Salt Lake City, on the third Monday, the 20th, of the present month, to adopt a Constitution and form of State Government, the same as was provided for in the bill which the Governor, that then was, vetoed. Similar meetings will be held in every city, town and settlement throughout the Territory, for the appointment of delegates to the convention, the people being determined to have their will expressed in relation to the matter despite the intervention of an executive prohibition.

This movement of the people suits our notions of things, for we do not believe in being thwarted in any measure the people or their representatives may choose to institute or adopt for their benefit, socially or politically, by foreign intervention. The citizens of the Territory will speak, and, no doubt, be heard in relation to the subject, which is to them, under existing circumstances, of great importance.

DEATH BY FREEZING.—On the 12th ult., Mr. William Moore, of Beaver county, in going from Minersville to Parowa, camped in the mountains over night. His cattle strayed off, and the next day he went in search of them. As he did not return to camp that night, search was instituted for him, and his body found. He had perished of cold.